

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

BILLY CAPEL,

Appellant

v.

D-05-217

BEDFORD FIRE DEPARTMENT,

Respondent

Appellant's Attorney

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Respondent's Attorney

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Commissioner:

Donald R. Marquis

DECISION ON APPOINTING AUTHORITY'S MOTION TO DISMISS

The Appointing Authority has moved to dismiss the Appellant's disciplinary appeal to the Commission on the grounds that the question of the termination of the Appellant has been adjudicated through arbitration under the collective bargaining agreement between the Town of Bedford and Local 2310, IAFF. The Arbitration Award was attached to the motion.

Chapter 150E, section 8 provides in part that:

"Where binding arbitration is provided under the terms of a collective bargaining agreement as a means of resolving grievances concerning job abolition, demotion, promotion, layoff, recall or appointment and where an employee elects such binding arbitration as the method of resolution under said collective bargaining agreement, such binding arbitration shall be the exclusive procedure for resolving any such grievance, notwithstanding any contrary provision of chapter thirty-one."

In the current case, the Appellant elected binding arbitration as the method of resolution of his claim. Consequently, he is precluded by statute from pursuing an appeal under the civil service law.

For the above reasons, the Appointing Authority's motion is allowed and the appeal under Docket No. D-05-217 is hereby *dismissed*.

Donald R. Marquis,
Commissioner

By vote of the Civil Service Commission (Goldblatt, Chairman, Guerin, Taylor, Marquis, Bowman Commissioners), on December 14, 2006.

A true Copy. Attest:

Commissioner
Civil Service Commission

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A § 14(1) for the purpose of tolling the time for appeal.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the commission's order or decision.

Notice to:
Tim D. Norris, Esq.
Michael E. Bonenfant, Esq.